IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWELFTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE GODA RAGHURAM

WRIT PETITION NO : 12585 of 1996

Between:

K.S.R.Anjaneyulu S/o. Bhaskara Rao7/2, Arundalpet Guntur Dist

..... PETITIONER

AND

1 The A.P.Cooperative Tribunal,Vijayawada, Krishna Dist
2 The Deputy Registrar of Cooperative Societies, Guntur
3 C.P.J.Chandra Mohan S/o. Poorna Chandra Rao,Secretary
Hindu College and High School Councils Staff Coop. Society Ltd., Guntur

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court will be pleased to issue a writ of mandamus or any other appropriate writ, order or direction declaring the orders in MP.No.9/95 in SR.No.5/95 Dt.23/04/1996 on the file of the A.P.Cooperative Tribunal, Vijayawada as illegal, arbitrary and contrary to the provisions of the Act and to pass such other order.

Counsel for the Petitioner: MR.K.CHIDAMBARAM

Counsel for the Respondent No.1 to 3: MR.S.NARASIMHA RAO

The Court made the following :

ORAL ORDER:

The writ petition is filed assailing the order of the Andhra Pradesh Cooperative Tribunal, Vijayawada dated 23-4-1996 in MP No.9 of 1995 in SR 5 of 1995.

The petitioner suffered the surcharge order dated 17-06-1992, issued by the Deputy Registrar of Co-operative Societies, Guntur, wherein the petitioner along with others were held responsible for misappropriation of the funds of the Hindu College/High School Councils Staff Co-operative Credit Society. The petitioner filed application in MP 9 of 1995 seeking condonation of 670 days delay in preferring the appeal. The A.P. Co-operative Tribunal, Vijayawada by the order impugned herein rejected the application for condonation of delay. The Tribunal recorded the following reasons and circumstances for rejecting the application.

"3.It is argued by the petitioner's advocate that surcharge orders were issued in R.c.No.2529/86C, dated 17-6-1992 by the Deputy Registrar of Co-Operative Societies herein the 1st respondent holding the petitioner and others; responsible for misappropriation of the society. Originally appeal was filed in the Court of the District Judge cum Co-operative Tribunal, Guntur on 22-8-1992. The appeal was returned on 31-12-1992. The appeal was not represented in time as the returned appeal record was misplaced and mixed up with other records of the

previous pleader's office. The advocate could not be contacted as the petitioner had prolonged illness and due to family difficulties. Subsequently he was able to take the record from the advocate's office and represented the same in District Judge's court, Guntur but due to

the institution of the Special Tribunal, the Court where the appeal was filed previously returned the appeal to be presented in proper court and granted time till 21-12-1994 and thereupon the appeal was filed on 20-12-1994 i.e., in time. Judgment has been cited to take a liberal approach while deciding the case of limitation and where substantial justice and technical considerations are to be considered against each other substantial justice is to be preferred (A.I.R.1987 supreme Court P.1353)

4. The respondent No.1 and the advocates of R2 and R5 have put forth that the filing of case in District Judges Court, Guntur, returning of the case by the Court mixing of the records of the case with other records in pleader's office, prolonged illness, family difficulties, filing case again in the District Judge's Court and returning of the same to be presented in the proper court are all false statements. The name of the petitioners advocate, the name of the clerk of the advocate were not mentioned, the name of the disease from which the petitioner suffered and had prolonged illness and the period of illness are not mentioned, the nature of the domestic difficulties are also not mentioned. The delay has to be explained in a proper manner but not in a general way. More over the appeal should not have been filed before the District

Judge which is not the Co-operative Tribunal as defined. It is filed in a wrong court. The petitioner cannot plead ignorance of not knowing as to where to file because the respondent No.2 herein D.Raghavarao filed CTA 2/1992 and CTA 3/1992 before the Sub Court, Guntur which is the Co-operative Tribunal impleading the petitioner also as respondent in both the appeals and the petitioner was represented by advocate and also received notices in both the cases. Regarding the liberal approach with regard to condonation of delay, it is argued that where the cause is genuine and a real difficulty is there and circumstances justify the condonation of delay it is to be given and not basing on very general statements and on false pretexts and in the instant case it is only to abuse the process of law the pleas are being put forward which deserve no consideration and there are no merits in the request.

5.The pleas put forward; mixing up of record in pleader's office, prolonged illness and family difficulties are of a very general nature; No specific and substantial proof is produced with regard to the same. The delay is not explained in a reasonable manner. The appeal is stated to have been filed originally in a Court which does not have jurisdiction. The petitioner cannot plead ignorance as to where to file the appeal in view of the details narrated in para (4) above regarding

the filing of CTA 2/92 and CTA 3/92 by respondent No.2 impleading the petitioner as respondent in those cases.

In view of the reasons assigned by the Tribunal in declining to condone the enormous delay, the impugned order is seen to suffer from no infirmity, warranting interference by this Court. No reasonable cause was pleaded or established before the Tribunal with any particularity and specificity by the petitioner for seeking condonation of the extraordinary delay. Vague and general assertions as to illness and domestic problems were urged in the application seeking condonation of delay. In the absence of pleadings setting out 'adequate reasons' that are to be stated by the petitioner, the impugned order cannot be found fault with.

On the above analysis, there are no merits in the writ petition and it is accordingly dismissed. No costs.

12-08-2004

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To

1 The A.P.Cooperative Tribunal, Vijayawada, Krishna Dist

2 The Deputy Registrar of Coop. Societies, Guntur

3. Two CD copies.